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11 *Attorney for Petitioner Jack Leal

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Jack Leal,

15 Plaintiff,

16 v.

17 Nevada Department of Corrections, *et al.*,

18 Defendants.

Case No. 2:21-cv-01965-GMN-VCF

**Unopposed motion to extend
deadline to serve defendant and
file proof of service**

19
20 Petitioner Jack Leal respectfully moves this Court for a final extension of
21 time of thirty (30) days to serve Defendant H. Landsman, as required by this Court
22 in its April 10, 2023, Notice of Intent to Dismiss. (ECF No. 50). Counsel for
23 Defendants does not oppose the request. In support of his motion, Mr. Leal
24 represents as follows:
25
26
27

1 Counsel for Mr. Leal files the present motion in good faith. Mr. Leal initiated
2 the current matter by filing a Complaint on or about October 25, 2021. ECF No. 1.
3 This Court appointed counsel for Mr. Leal on January 30, 2023. ECF No. 45.
4 Undersigned counsel entered his appearance on February 16, 2023. ECF No. 47. On
5 April 10, 2023, this Court entered a Notice Regarding Intention to Dismiss as to
6 three parties, Scott Mattinson, T. Agustin, and H. Landsman, unless proof of service
7 was filed with the clerk by May 10, 2023. ECF No. 50. On May 8, 2023, undersigned
8 counsel, through an investigator, effected service upon Defendant T. Agustin.¹ See
9 ECF No. 56. The same investigator attempted to serve Defendant H. Landsman but
10 was unable to find him at his place of residence. Counsel sought an extension until
11 May 24, 2023, to serve Defendant Landsman, which this Court granted on May 15,
12 2023. ECF Nos. 55, 57.

13 Following the above motion for an extension of time, counsel hired a process
14 server, “Legal Wings, Inc.,” to serve Mr. Landsman. On May 24, 2023, undersigned
15 counsel spoke with a representative for the process server who explained that, in
16 the preceding week, an agent had unsuccessfully attempted service on two
17 occasions. The representative suggested that, based on the process server’s
18 observations, Mr. Landsman may have been avoiding service. The representative
19 noted that the company would attempt service two more times. Counsel then sought
20 another extension of time until June 7, 2023, to serve the defendant. ECF No. 63.
21 Following the motion, counsel’s process server unsuccessfully attempted service on
22 two additional occasions. See Ex. A, Declaration of Attempted Service.

23 In light of the above developments, undersigned counsel requests a final
24 extension of time of thirty (30) days to attempt to serve Defendant Landsman or
25

26 ¹ While attempting to ascertain the whereabouts of each above-referenced
27 individual, counsel discovered that Defendant Scott Mattinson has passed away.
Mr. Leal will voluntarily dismiss his case against that individual.

1 seek alternative service methods consistent with Rule 4 and state law. Counsel's
 2 process server has indicated it will conduct a final, and more thorough, search to
 3 attempt to locate Defendant Landsman. Should those efforts fail, counsel will seek
 4 to serve the defendant through publication.

5 On June 7, 2023, undersigned counsel contacted opposing counsel Anna L.
 6 Heshmati to see if Defendants would stipulate to an extension of time as provided
 7 herein. Ms. Heshmati represented that Defendants do not oppose the request.


8 This motion is not filed for the purposes of delay, but in the interests of justice,
 9 as well as in the interest of Mr. Leal. As noted above, counsel has diligently sought
 10 to serve Defendant Landsman. Counsel for Mr. Leal respectfully requests a final
 11 extension, until Friday July 7, 2023, so that he may attempt to ascertain Defendant
 12 Landsman's whereabouts and personally serve him or, alternatively, seek
 13 authorization to serve him through publication.

14
 15 Dated June 7, 2023.

16
 17 Rene L. Valladares
 18 Federal Public Defender

19 /s/ Martin L. Novillo
 20 Martin L. Novillo
 21 Assistant Federal Public Defender
 22 Attorney for Plaintiff

23 IT IS SO ORDERED:

24
 25 

26 United States District Judge
 27 Magistrate

Dated: 6-8-2023

EXHIBIT A

EXHIBIT A

FEDERAL PUBLIC DEFENDER'S OFFICE, DISTRICT OF NEVADA
411 E BENNEVILLE AVE, STE 250
LAS VEGAS, NV 89101
(702) 388-6577



JACK LEAL
Plaintiff

vs

CHARLES DANIEL, ET AL.,
Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case Number: 2:21-CV-01965-
GMN-VCF

Dept:

**DECLARATION OF
ATTEMPTED SERVICE**

TYLER TREWET, depose(s) and say(s):

That affiant(s) are and were at all times mentioned herein citizen(s) of the United States, over 18 years of age, not a party to, nor interested in the within action, and licensed to serve civil process under Nevada license number 389.

Legal Wings, Inc. received on 5/22/2023 a copy of the:
SUMMONS IN A CIVIL ACTION; CIVIL RIGHTS COMPLAINT

Based on the results at the address(es) listed below, affiant(s) were unable to serve:
Defendant HENRY LANDSMAN

10055 CANYON HILLS AVENUE, LAS VEGAS, NV 89148

TYLER TREWET 5/22/2023 5:43 PM

No response at door. Noise and movement within. Occupant within moving around refusing to open for server.

TYLER TREWET 5/23/2023 11:40 AM

No response at door. No activity within.

TYLER TREWET 5/24/2023 12:20 PM

No response at door no activity or change from prior attempt. No answer with neighbor. Legal Wings contact sheet left on garage.

TYLER TREWET 5/24/2023 7:09 PM

Received a text from [REDACTED] 8195 stating the subject is no longer residing. See attached text message.

JACK LEAL
Plaintiff

vs

CHARLES DANIEL, ET AL.,
Defendant

Case Number: 2:21-CV-01965-
GMN-VCF

Dept:

**DECLARATION OF
ATTEMPTED SERVICE**

(CONTINUATION)

Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.



TYLER TREWET
Registered Work Card R-2019-04184

Executed: Wednesday, June 7, 2023

